

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PRODIGY CONSTRUCTION CORPORATION,)	
INC. – ALLEGED VIOLATION OF)	CASE NO.
UNDERGROUND FACILITY DAMAGE)	2019-00168
PREVENTION ACT)	

ORDER

Pursuant to KRS 278.495(2), the Kentucky Public Service Commission (Commission) has jurisdiction to regulate the safety of natural gas facilities in Kentucky and to enforce minimum federal pipeline safety standards. Under the Kentucky Underground Facility Damage Prevention Act (Act), KRS 367.4901 through KRS 367.4917, the Commission has authority to investigate and assess civil penalties for any violation of the Act that results in excavation damage to an underground facility used to transport natural gas or hazardous liquid subject to federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.* Any person who violates any provision of the Act is subject to assessment of a civil penalty in the amount of \$250 for the first offense, no more than \$1,000 for the second offense within one year, and no more than \$3,000 for the third and any subsequent offense. Additionally, any person whose violation of the Act results in damage to an underground facility containing any flammable, toxic, corrosive, or hazardous material or results in the release of any flammable, toxic, corrosive, or hazardous material is subject to an additional penalty of up to \$1,000.

Following receipt from an operator of excavation damage to its underground gas pipeline, Commission Staff (Staff) conducted an investigation and prepared an Incident

Report, a copy of which is attached to this Order as an Appendix. In its Incident Report, Staff cites Prodigy Construction Corporation, Inc., for violation of the following provision of the Act:

KRS 367.4911(10) – When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

Based on its review of the Incident Report and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Prodigy Construction Corporation, Inc., violated the Underground Facility Damage Prevention Act. The Commission further finds that a formal investigation into the excavation damage incident should be conducted.

IT IS THEREFORE ORDERED that:

1. Prodigy Construction Corporation, Inc. shall submit to the Commission a written response to the allegations contained in the Staff Incident Report within 20 days of the date of this Order.
2. Prodigy Construction Corporation, Inc. shall appear on August 9, 2019, at 9 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violation of the Underground Facility Damage Prevention Act, and showing cause why it should not be subject to the penalties prescribed in KRS 367.4917(1) and (4) for this alleged violation.
3. The August 9, 2019 hearing shall be recorded by videotape only.
4. A person shall not file a paper or appear at a hearing on behalf of, or otherwise represent, a partnership, corporation, business entity or other person unless the person is an attorney licensed to practice law in Kentucky.

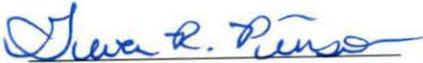
5. The Staff Incident Report in the Appendix to this Order is made a part of the record in this case.

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By the Commission

ENTERED
JUL 09 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2019-00168

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00168 DATED **JUL 09 2019**

TWO PAGES TO FOLLOW

PIPELINE DAMAGE INVESTIGATION REPORT

INVESTIGATION INFORMATION

KY PSC Investigator(s): Nantz	Damage Report Incident ID Number: 20913
Incident Date(s): 8/15/2018	Damage Report Submitted Date: 9/12/2018

OPERATOR INFORMATION

Name of Operator: Louisville Gas & Electric Company	Reported by: Paul Stratman
Phone: 502-364-8724	Email: Paul.Stratman@lge-KU.com
Incident Location Address: Louisville, KY	Locate Ticket Number: 1808150559
Location: Louisville, KY Address: 9600 Lamborne Blvd City: Louisville State: KY Zip Code: 40272	

Summary and Communications Log

EXCAVATOR INFORMATION

Name of Excavator: Prodigy Construction Corp, Inc.	Organization ID: 060312
Phone: 502-618-1816	Email: N/A
Excavator_Address: Louisville, KY	Locate Ticket Number: 1808150559
Company Name: Prodigy Construction Corporation, Inc. Address: 11106 Decimal Drive City: Louisville State: KY Zip Code: 40229	Company found to be Active and in Good Standing on KYSOS website. Registered Agent: D. SEAN NILSEN 2527 NELSON MILLER PKWY. STE. 101 LOUISVILLE, KY 40223

From Operator's Filed Report:

Excavator damaged gas service while installing drain lines.

Excavator damaged a gas line while digging over locate marks. Excavator thought the service would be deeper.

Contact with Excavator

11/19/2018:

11:00 AM Spoke with Rod Wilson (502-572-8221) to discuss the report who asked me to call Sean Mattingly, his Project Manager at 502-664-0925. Left message to return my call at 11:06 AM.

11:42 Sean Mattingly returned my call. Confirmed that Prodigy did have mechanized equipment operating within the tolerance zone. I explained the Demand Letter process and confirmed the letter should be addressed to Sean.

Violation(s)

367.4911 Excavator or person responsible for excavation to notify operator of work schedule -- Responsibilities of excavator.

(10) When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

Submitted by:

Michael Nantz
Investigator
Utility Regulatory and Safety Investigator

11/19/2018

Sean Mattingly
Prodigy Construction Corporation, Inc.
11106 Decimal Drive
Louisville, KENTUCKY 40229